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MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Patent No. 7,787,696	:
Wilhelm et al.	:
Issue Date: August 31, 2010	:
Application No. 09/876,915	:
Filed: June 8, 2001	:
Attorney Docket No. 2000-	:
008/9/14	:
Title: SYSTEMS AND METHODS FOR	:
ADAPTIVE SAMPLING AND	:
ESTIMATING A SYSTEMATIC	:
RELATIONSHIP BETWEEN A	:
PLURALITY OF POINTS	:

This is a decision on the petition filed on November 1, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two thousand five hundred forty-two (2542) days. Patentees dispute the 23-day reduction.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED**.

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 11-0855. No additional fees are required.

Patentees dispute the 23 day reduction taken for the submission of the miscellaneous incoming letter on February 26, 2010. Patentees contend the 23 day reduction pursuant to 37 CFR 1.704(c)(10) overlaps with the 97 day reduction for the submission of the amendment pursuant to 37 CFR 1.312.

Patentees' argument has been considered and determined to be convincing that the 23 day reduction is not warranted.

37 CFR 1.704(c) provides that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

37 CFR 1.704 (c)(10) provides:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

A review of the record shows that there was one instance which required a reduction pursuant to 37 CFR 1.704(c)(10). A reduction pursuant to 37 CFR 1.704(c)(10) of 97 days for the submission of the 312 amendment on February 26, 2010. The reduction is calculated beginning February 26, 2010 and ending on June 2, 2010, the date the Notice in response to the amendment was mailed. A review of the record shows that the only other documents coded as miscellaneous letters are a change of entity status and a response to the examiner's reason for allowance, neither of which are considered a failure to engage in reasonable efforts to conclude prosecution. As such the total reduction pursuant to 37 CFR 1.704(c)(10) is 97 days. The 23 day reduction will be removed.

As such the total number of days the period of adjustment under 37 CFR 1.702(a) and (b) must be reduced due to applicants' delay which totals 403(30 + 97 + 276) days.

In view thereof, the patent is entitled to an overall adjustment of 2542 days (760 days (694 + 66) under 37 CFR 1.702(a) + 2275 days under 37 CFR 1.702(b) - 90 (24 + 66) overlapping days - 403 days of applicant delay).

The application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two thousand five hundred forty-two (2,542) days**.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.



Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,787,696 B2

DATED : August 31, 2010

DRAFT

INVENTOR(S) : Wilhelm et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 2519 days

Delete the phrase "by 2519 days" and insert – by 2542 days--